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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,794	11/23/2001	John Phillip Chevalier	SOMMR-006CUS	1594
7663	7590	10/08/2004	EXAMINER	
STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656			ESTREMSKY, GARY WAYNE	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,794

Applicant(s)

CHEVALIER, JOHN PHILLIP

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 148-158 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 148-151 and 156 is/are rejected.
- 7) ☒ Claim(s) 152, 157, 158 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 May 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/372,912.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 153 and 154 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what is meant by claims 153 and 154 which appear to be duplicates of claim 151 whereby their dependence results in double, then triple recitation of the same limitation.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 148-151 and 156 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,762,348 to Matsumoto.

Matsumoto '348 teaches Applicant's claim limitations including : an "only one electric motor" - 26, a "latch bolt" - 14, a "pawl" - 16, a "driving and indexing

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member" - 29, "having at least one projection extending therefrom" - 30, at "east one pawl release member" - 20, "at least one coupling member" - 49, an "actuating member" - 38 which can contact 30 and is functionally connected with 49 which can engage or disengage from 20 which is connected to the pawl for its opening whereby contact of 30 with 38 results in part 49 first contacting part 20 and then moving it to release the pawl from the latch bolt.

As regards claim 149, the reference explicitly describes the motor being used to achieve a full latch condition where functional recitation defining capability does not patentably define from structure of the reference since "sequence" is broad enough to include operation as described in the prior art. For example, a combination lock is commonly opened by turning its dial to a sequence of numbers, that sequence including forward and reverse rotations.

sequence >noun 1 a particular order in which related things follow each other. 2 a set of related things that follow each other in a particular order. 3 a part of a film dealing with one particular event or topic. 4 Music a repetition of a phrase or melody at a higher or lower pitch. >verb 1 arrange in a sequence.

The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789.

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Allowable Subject Matter

5. Claims 152, 157, and 158 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Due to the nature of the rejections of claims 153 and 154, allowability is not indicated.

Response to Arguments

6. Applicant's arguments are moot in view of the new grounds of rejection. While the same reference has been applied, the claims' scope is drastically different than previous claims' scope whereby rejection is a substantial new grounds of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory


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action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary Estremsky
Primary Examiner
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